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JUL 26 2006

Application No.: 10/766,032

Docket No.: 30016732-2

REMARKS

By Official Action mailed *June 28, 2006*, restriction to one of the following inventions is required:

- Invention I: Claims 1-10, 33, 54-58, drawn to establishing whether there is match between characteristic or derivative of, classified in class 711, subclass 154.
- Invention II: Claims 11-30, drawn to identifying content upon request to be stored and taking appropriate action, classified in class 711, subclass 154.
- Invention III: Claims 31-34, 38-44, 45-51 drawn to a reference library and processor to evaluate content and obtaining a signature or fingerprint, classified in class 711, subclass 15.
- Invention IV: Claims 35-37, drawn to a network attached file server capable of producing a report, classified in class 711, subclass 154.
- Invention V: Claims 52-53 drawn to rules dependent upon the user identity and a network link to a 3<sup>rd</sup> party, classified in class 711, subclass 163.
- Invention VI: Claims 60-62, drawn to information correlating a plurality of data records and access authority parameters, classified in class 711, subclass 163.
- Invention VII: Claims 63-64, drawn to evaluating requests for a storage and generate billing relating to user, classified in class 711, subclass 154.
- Invention VIII: Claims 65-68, drawn to a memory controller evaluating selected data content and an adapting control processor, classified in class 711, subclass 154.

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Invention: IX: Claim 69, drawn to control processor taking an action in response to a positive comparison, classified in class 711, subclass 154.

In response, Applicants hereby elect Invention I, upon which claims 1-10, 54-59, and amended claim 65 are readable.

The election is made *with traverse* for the following reasons.

Every requirement to restrict has two aspects:

(A) the reasons (as distinguished from the mere statement of conclusion) why each invention as claimed is either independent or distinct from the other(s); and

(B) the reasons why there would be a serious burden on the examiner if restriction is not required, i.e., the reasons for insisting upon restriction. *See MPEP*, section 808 (emphasis added).

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. *See MPEP*, section 803 (emphasis added).

In this case, Applicants respectfully submit that the Examiner's reasons for insisting upon restriction are not persuasive, and that the search and examination of the entire application can be made without serious burden. As indicated by the Examiner in the Restriction Requirement, at pages 2-3, many of the allegedly independent/distinct Inventions are classified in the same class and subclass. For example, Inventions I, II, IV, VII, VIII and IX are all classified in class 711, subclass 154. The other Inventions, i.e., Inventions III, V, and VI, are classified in the same class 711 as Inventions I, II, IV, VII, VIII and IX, and in closely related subclasses, i.e., subclasses 15 and 163. Therefore, Applicants respectfully submit that all claims, or at least the claims readable on Inventions I, II, IV, VII, VIII and IX which are all classified in 711/154, can be covered in a single search without serious burden on the Examiner, and should be examined on the merits, even if the

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Examiner is correct that the Inventions are independent or distinct.

In addition, the requirement for restriction between Inventions I and II, *as formulated by the Examiner*, is improper, because Invention I and Invention II are not related as subcombinations usable in a single combination as alleged by the Examiner. Instead, Invention I (directed to network-attachable data storage device, *see* the preamble of representative claim 1) and Invention II (directed to method of operating network-attached data storage device, *see* the preamble of representative claim 11) are related either as product and process of using or as process and apparatus for its practice. The tests indicated in *MPEP*, at sections 806.05(h) and 806.05(e) must be satisfied before restriction between Inventions I and II can be required.

In view of the above, withdrawal of the Restriction Requirement and consideration of all claims pending in the instant application are believed appropriate and therefore courteously solicited.

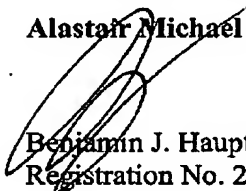
Early examination on the merits is respectfully requested.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,

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